

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

McKesson Corp., a Delaware Corp.,

No. C-07-5715 WDB

Plaintiff,

v.
Familymeds Group, Inc., f/k/a
Drugmax, Inc., a Connecticut
corporation,

**ORDER RE MAY 5, 2008, CASE
MANAGEMENT CONFERENCE**

Defendants.

Familymeds Group, Inc., f/k/a
Drugmax, Inc., a Connecticut
corporation,

Counterclaimant

v.

McKesson Corp., a Delaware
corporation,

Counterdefendant.

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On May 5, 2008, the Court conducted a case management conference.

For the reasons stated on the record, the Court ORDERS as follows.

1. The Court RULES that informal production of additional materials by
McKesson to Familymeds may not serve as the basis for an argument by
Familymeds that McKesson has waived rights or objections.

1 2. For the reasons explained on the record, the Court DENIES
2 WITHOUT PREJUDICE McKesson's Motion to Dismiss, filed January 14, 2008.

3 3. The Court LIFTS the stay of discovery and further motions practice
4 entered in its March 13, 2008 Order.

5 Familymeds Group may, using an appropriate procedural device, seek to add
6 Familymeds Inc., and/or D&K as a party in this or a separate lawsuit.

7 McKesson may file a substantive motion seeking to enforce its breach of
8 contract claim. **By Wednesday, June 4, 2008,** McKesson must file with the Court
9 its substantive motion or inform the Court that McKesson does not intend to file a
10 substantive motion. If McKesson notifies the Court that it does not intend to file a
11 substantive motion the Court promptly will convene a follow up case management
12 conference to discuss scheduling.

13 IT IS SO ORDERED.

14 Dated: May 5, 2008



WAYNE D. BRAZIL
United States Magistrate Judge

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